In the High Court of Punjab and Haryana at Chandigarh

Crl.Rev.No.223 of 2005
Date of decision: 27.9.2010

Hakam Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Harsh Aggarwal, Advocate,
for the petitioner.

Mr.Amandeep Singh Rai, AAG, Punjab.

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SABINA, J.

The petitioner was convicted under Section 61(1) (c) of the Punjab Excise Act, 1914 (for short- "the Act") vide judgment dated 3.9.2003 passed by the Additional Chief Judicial Magistrate, Sangrur. Vide order of the even date, he was sentenced to undergo rigorous imprisonment for a period of one year with a fine of Rs.5,000/-. Aggrieved by the same, the petitioner preferred an appeal, which was dismissed vide judgment dated 17.1.2005 passed by the Additional Sessions Judge, Sangrur. Hence, the present petition.

Brief facts of the case, as noticed by the Appellate Court in para No. 2 of its judgment, are reproduced herein below:-

> "During its patrolling duties, a police party headed by ASI Baljit Singh on 26.8.2001, received a secret information against the accused to the effect that he was distilling illicit liquor in his residential house in Bhullar Pindi (Longowal). Thereupon after sending ruqa, the police party conducted raid in the residential house of the accused after associating one Bhola Singh s/o Hazuri Singh of village Longowal. The accused was present in the house and was caught red handed while distilling illicit liquor on a working still. But that time he had already distilled from out of the fermented lahan. The working still was cooled down and its components were taken into possession. The drum boiler containing fermented lahan was sealed with the seal bearing impression BS. The sample nip was separated from the distilled illicit liquor also and was sealed alongwith the plastic can containing the remaining illicit liquor. The case property was taken into possession vide recovery memo which was attested by the witnesses. Site plan was prepared, statement of witnesses were recorded and on return to the police station, the case property was deposited, in fact, in the malkahana. In due course, the Excise Inspector, Rakesh

> Kumar visited the police station and tested and contents of the sealed drum and submitted his report that it was fermented lahan fit for distillation of illicit liquor. On receipt of Chemical Examiner's Report, the prosecution presented challan in the Court."

After hearing learned counsel for the parties, I am of the opinion that no ground for interference by this Court is made out.

Both the Courts below have ordered the conviction of the petitioner under Section 61 (1) (c) of the Act by giving sound reasons.

The Investigating Officer raided the house of the petitioner on receipt of a secret information and the petitioner was caught red handed while distilling illicit liquor. The petitioner was also found in possession of lahan, which was fit for distillation. The official witnesses were acting in discharge of their official duty and had no reason to falsely involve the petitioner in this case. Merely because the independent witness had not supported the prosecution case, is no reason to disbelieve the statements of the official witnesses. The independent witness might have been won over by the petitioner being his co-villager. Learned trial Court in para No. 28 of the impugned judgment has held as under:-

> "In the present case, all available components of the working still were produced in the Court besides liquor and iron drum containing lahan recovered from the

accused. There is direct testimony of Sh.Rakesh Kumar, Excise Inspector that contents of iron drum were fit for distillation of illicit liquor. There is also positive evidence on the file that distilled liquor was found to be illicit as per chemical report Ex.P-10. There is direct testimony of PW-5 ASI Baljit Singh and PW4 HC Teja Singh that at the moment, the accused was feeding the fire under the hearth and was distilled liquor by way of working still. In the fact of this testimony, this Court has come to the conclusion that it has been proved on file that on 26.8.2001 at about 4.00 pm within the area of village Longowal, the accused was found distilling illicit liquor by way of working still and found bottles of illicit liquor and 31 kgs. of lahan were found in the possession of the accused."

The reasons given by the trial Court, while ordering the conviction of the petitioner under Section 61 (1) (c) of the Act, are sound reasons. No ground for interference by this Court is made out.

Accordingly, this petition is dismissed.

SABINA)
JUDGE

September 27, 2010
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